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**Zia-ul-Haq, Muhammad Khan Junejo, and the Politics of the Exception in Pakistan,
1977 to 1988**

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ABSTRACT

This article examines the constitutional and institutional architecture through which General Muhammad Zia-ul-Haq's martial law regime reorganized, rather than simply suspended, democratic form in Pakistan between 1977 and 1988. Drawing on Carl Schmitt's theorization of the sovereign exception and Guillermo O'Donnell's concept of delegative and tutelary democracy, the article argues that the 1985 restoration of civilian government under Prime Minister Muhammad Khan Junejo did not amount to a return to constitutional normalcy. It amounted instead to the institutionalization of the exception itself, in which a supplemented civilian order operated permanently within, and at the pleasure of, an unaccountable executive sovereign. The article traces this dynamic across four moments. It begins with Operation Fair Play and the indefinite deferral of the promised ninety-day transition. It moves through the eight years of martial law administration and the eventual 1985 non-party elections. It follows the drafting of the Eighth Constitutional Amendment and the powers it placed in presidential hands. The final section addresses the dismissal of the Junejo government on 29 May 1988 and the contested succession that followed Zia's death in August of that year. Each of these moments reproduces the same underlying grammar, in which sovereign decision presents itself as constitutional procedure. The analysis concludes that Zia's Pakistan offers one of the clearest empirical cases available of what O'Donnell called tutelary democracy, a regime in which elections, cabinets and legislatures function, but only as supplements to an extra constitutional locus of final authority rather than as constraints upon it.

Keywords: Pakistan, Martial Law, Zia-Ul-Haq, Muhammad Khan Junejo, Carl Schmitt, Sovereign Exception, Delegative Democracy, Eighth Amendment, Article 58(2)(B), Civil Military Relations

Introduction

On 5 July 1977 General Muhammad Zia-ul-Haq suspended Pakistan's 1973 Constitution, dissolved its elected assemblies and imposed martial law under the codename Operation Fair Play. In his televised address that evening Zia promised elections within ninety days and

described his intervention not as a repudiation of democracy but as its rescue from a country he characterized as groaning under a state of extreme disarray (Imroz, 6 July 1977). The ninety days did not arrive for eight years. When civilian government finally returned in 1985 it took the shape of a heavily circumscribed prime ministership under Muhammad Khan Junejo, operating beneath a president who retained the constitutional power to dismiss him without cause. Zia in fact exercised that power on 29 May 1988, less than three years into Junejo's term.

This trajectory is usually narrated within Pakistani historiography as a story of postponed and then betrayed democratic restoration. Martial law gave way, however reluctantly, to an elected civilian government, and that government was then unconstitutionally cut short. This article proposes a different reading. Rather than treating the years between 1977 and 1988 as an interrupted transition toward democracy, it treats martial law, the non-party elections, the Eighth Amendment and the Junejo prime ministership as a single and internally coherent constitutional order. What binds these episodes together is not their failure to achieve democratic government but their success in institutionalizing a permanent exception behind the appearance of one.

To make this argument the article draws on two bodies of theory rarely brought together in the Pakistani context. The first is Carl Schmitt's account of the sovereign exception. The second is Guillermo O'Donnell's later theorization of delegative and tutelary democracy, developed originally to explain the character of civilian governments that emerged from military rule in Latin America. Read jointly these frameworks allow the Zia and Junejo years to be understood not as a failed or incomplete democratization but as the successful construction of a durable regime type, one in which elected institutions are permitted to operate, and even to accumulate real popular legitimacy, precisely because they remain subordinate to a sovereign authority situated outside and above the constitutional text.

The article proceeds in six parts. It first sets out the theoretical framework in full. It then reconstructs the founding decision of July 1977. It examines the 1985 elections and the Eighth Amendment as the moment at which the exception was written into constitutional language. It turns to the Junejo prime ministership itself, treating three episodes, the Geneva Accords, the question of military privileges and the Ojhri Camp disaster, as diagnostic tests of how much autonomous authority a delegated prime minister could exercise. It then examines the dismissal of 29 May 1988 and the constitutional crisis surrounding Zia's death three months later. It closes with a discussion of what this case suggests about the durability of tutelary arrangements once they are given textual form.

Theoretical Framework, the Exception and the Delegated Republic

Carl Schmitt and the Sovereign Decision

Schmitt's well-known formulation, that sovereign is he who decides on the exception, locates the essence of political authority not in the ordinary operation of law but in the moment at which law is suspended in the name of preserving order (Schmitt, 2005, pp. 5 to 7). For Schmitt the exception is not external to the legal order. It is constitutive of it, because only

the sovereign's capacity to step outside the constitution reveals who ultimately holds authority within it. Schmitt's sovereign does not necessarily abolish law altogether. The exception can coexist with, and even be exercised through, ostensibly legal instruments such as emergency decrees, referenda and amended constitutions, provided that the ultimate decision about when the exception applies and when it is lifted remains with the sovereign alone.

This last point matters for the argument developed here. Zia's regime did not operate outside constitutional language for most of its duration. It operated through constitutional language, through non-party elections, through a constitutional framework announced in August 1983, and eventually through an Eighth Amendment that restored the 1973 Constitution in name. Throughout all of this the regime reserved to itself, unilaterally and without meaningful contestation, the power to determine when constitutional normalcy would resume and on what terms. This is the Schmittian structure in its clearest form. Legality becomes an instrument of sovereign will rather than a constraint upon it.

O'Donnell and the Delegative Republic

Writing almost two decades later and in a different hemisphere, Guillermo O'Donnell identified a regime type he called delegative democracy. In a delegative democracy the winner of a presidential or executive contest is entitled to govern as he or she sees fit, constrained in practice only by the existing relations of power and by a constitutionally limited term of office rather than by ongoing horizontal accountability to legislatures, courts or other elected bodies (O'Donnell, 1994, pp. 55 to 69). O'Donnell's delegative democracies are not authoritarian in the classical sense, since elections are genuinely held and genuine political competition occurs. The winning executive nonetheless relates to legislatures and courts as encumbrances to be managed rather than as co-equal sites of sovereignty.

A closely related concept, tutelary or guardianship democracy, extends this logic to cases in which the ultimate constraining power lies not with the elected executive but with an unelected institution, typically the military, that permits civilian government to function within boundaries it alone defines and reserves the right to redraw (O'Donnell, 1994, p. 59). It is this second and more restrictive variant that most precisely describes the structure Zia constructed after 1985. Junejo was an elected prime minister answerable in form to a National Assembly. In substance he was answerable to a president who was himself a product of, and remained subordinate to, the military establishment.

Reading the Zia Years Through Both Frameworks

Read together, Schmitt and O'Donnell furnish a two-stage analytic. Schmitt explains the founding moment, in which the coup of July 1977 positions Zia and the martial law apparatus he commands outside and above the constitutional order he has suspended. O'Donnell explains what happens next. Rather than the exception being lifted and constitutional government fully restored, or the exception hardening into permanent military dictatorship, Pakistan under Zia produced a third and hybrid form. Elected government was reintroduced as a supplement to the sovereign's authority rather than as a replacement for it. On this reading the Eighth Amendment was not primarily a device for restoring the 1973 Constitution. It was

the legal instrument through which the exception was written into the constitutional text itself, most visibly in the greatly expanded presidential powers, including the power of dismissal under Article 58(2)(b), that it introduced. What follows traces this dynamic empirically across the full length of the Zia and Junejo years.

Operation Fair Play and the Founding Decision

The immediate precondition for Zia's intervention was the political deadlock following the contested general election of March 1977, in which the opposition Pakistan National Alliance accused Zulfikar Ali Bhutto's government of large-scale rigging (Khan, 2000, p. 509). Negotiations between the Alliance and the Bhutto government proceeded intermittently through the spring of 1977 and, by several accounts, had come close to a settlement in the days immediately preceding the coup. Zia had, until the eve of the takeover, offered repeated assurances of loyalty to the Alliance leadership, a detail that complicates any reading of Operation Fair Play as a reluctant intervention forced upon an unwilling military.

In his address of 5 July, Zia described the country as groaning under a state of extreme disarray, framed the coup as protective rather than seizing, and promised elections within ninety days together with a transfer of power to elected representatives (Imroz, 6 July 1977). This promise did precisely the discursive work that Schmitt's framework predicts. It recast an act of sovereign decision, the suspension of the constitutional order, as a temporary, technical and ultimately democratic corrective. The ninety-day figure supplied a determinate horizon that made the exception legible as an exception, bounded and self terminating rather than constitutive of a new political order.

That horizon proved illusory almost immediately. Local government elections were held in November 1979 and again in 1982, but national level elections were delayed until 1985, and were then conducted on a non-party basis, denying political parties any formal role in the contest (Khan, 2000, p. 509). The non-party format deserves attention beyond its immediate effect of weakening organized opposition. It allowed Zia to satisfy the letter of his original promise, since elections did eventually take place, while denying that promise its substantive democratic content. This is the exception operating through legal form rather than against it, and it is the pattern that recurs at every later stage of the period under study.

The 1985 Elections and the Eighth Amendment

The eventual restoration of a constitutional framework was announced well before it was implemented. On 12 August 1983 Zia unveiled the outline of a constitutional order that would later be formalized, following the 1985 elections, as the Eighth Constitutional Amendment (Khan, 2000, p. 567). The amendment restored the 1973 Constitution in name while fundamentally altering its internal balance of power. Its most consequential feature was the expansion of presidential authority to include the power to dissolve the National Assembly and dismiss a sitting prime minister, a provision that became Article 58(2)(b). This provision performs exactly the operation this article ascribes to the entire period. It opens a standing channel through which the sovereign exception, first declared in 1977, can always be reasserted without any further need to leave constitutional language behind.

The 1985 elections that preceded the amendment's passage were themselves conducted under conditions that place their democratic credentials in serious doubt. Turnout is reported at approximately fifteen percent of the eligible population, a figure depressed substantially by the active boycott organized by the Movement for the Restoration of Democracy, which viewed the non-party format as incompatible with genuine electoral competition (Haider, 2000, pp. 120 to 150). Zia's selection of Muhammad Khan Junejo as prime minister followed this election and was made, according to multiple accounts, on the advice of Pir Sibghatullah Shah Pagara, a choice widely read at the time as motivated by Junejo's perceived political pliability relative to the alternative candidate, Elahi Bakhsh Soomro (Sohail, 1987, pp. 15 to 27).

The selection process itself illustrates the tutelary logic set out above. The prime minister of a nominally restored constitutional democracy was, in practice, chosen by the martial law administrator on the advice of a political intermediary, prior to any meaningful assertion of parliamentary preference. Junejo's own inaugural declaration, that martial law and democracy cannot coexist, can be read as an unintended acknowledgment of the contradiction built into his own office. It was a statement of democratic principle delivered by a prime minister whose very appointment had been an act of sovereign delegation rather than democratic selection.

Martial law was formally lifted on 30 December 1985 (Ziring, 1997). The lifting of martial law did not, on the analysis advanced here, terminate the exception. It relocated the exception into the constitutional text itself, through the expanded presidential powers the Eighth Amendment introduced. The exception had not been abolished. It had been codified, and codification proved a far more durable arrangement than martial law itself had been.

Junejo as Supplement, Civilian Government Within the Exception

The three years of the Junejo prime ministership are best understood not as a period of restored civilian rule but as an extended test of how much autonomous political agency a delegated prime minister could exercise before triggering the sovereign's reassertion of control. Three episodes are particularly diagnostic. The first concerns the negotiation of the Geneva Accords. The second concerns the reduction of military privileges. The third, and most consequential, concerns the Ojhri Camp disaster and its aftermath.

The Geneva Accords and Divergent Timelines

Zia and Junejo diverged visibly over the terms and timing of the 1988 Geneva Accords on Afghanistan. Zia favored a more conditional settlement, tied to the establishment of an interim Afghan government and a structured process of reconstruction, and resisted what he regarded as undue haste in concluding the agreement. Junejo, by contrast, pressed for prompt conclusion and proceeded on that basis, consulting opposition leader Benazir Bhutto and other political figures in the process (Mazari, 1999, Rais, 1997). The substance of the disagreement matters less for present purposes than its form. Here was a prime minister acting on a matter of foreign and security policy, traditionally the most closely guarded domain of the tutelary military establishment, without securing the sovereign's prior concurrence.

Military Privileges and the Boundaries of Civilian Authority

Junejo further strained his relationship with the military leadership by curtailing certain institutional privileges, replacing larger benefits with reduced allocations. Whatever the fiscal merits of this policy, it constituted an assertion of civilian budgetary authority over an institution that, under the tutelary arrangement inaugurated in 1977, had come to regard such matters as beyond the reach of elected oversight. Combined with Junejo's independent posture on Afghanistan, the privileges dispute signaled a prime minister attempting to convert the formal powers of his office into substantive ones, precisely the development a tutelary arrangement is structured to prevent.

The Ojhri Camp Disaster and the Imran Commission

The precipitating crisis arrived with the April 1988 explosion at the Ojhri Camp ammunition depot near Rawalpindi. Junejo constituted a commission of inquiry, headed by Lieutenant General Imranullah Khan, retired, whose findings reportedly cited mismanagement and negligence in the military's handling of ammunition stores. Before the commission's findings could be made public, Junejo's government was dismissed and the report suppressed. An elected prime minister exercising his constitutional authority to investigate an institution nominally subordinate to civilian government was thus removed from office before that investigation could conclude. The inquiry becomes, in retrospect, a diagnostic instrument, revealing not so much the causes of Ojhri Camp itself as the outer limit of delegated civilian authority under the Eighth Amendment settlement.

Taken together, these three episodes describe a prime minister who took his office at face value. Junejo pursued an Afghanistan policy he believed served Pakistan's interests, reduced military spending he regarded as excessive, and investigated a disaster within an institution formally accountable to the government he led. None of these actions exceeded the powers nominally granted to a prime minister under the restored 1973 Constitution. All three exceeded the boundaries the tutelary arrangement had actually been designed to enforce, and it is this gap between formal and substantive authority that the dismissal of May 1988 would go on to expose.

The Dismissal of 29 May 1988

Junejo was dismissed on 29 May 1988, immediately upon his return from an official visit to the Philippines, during which he had publicly affirmed that Pakistan possessed a fully functioning constitutional government with a Parliament enjoying complete freedom and autonomy (Dawn, 30 May 1988). The dismissal was delivered within hours of Junejo's own public affirmation of constitutional normalcy, and it coincided with Zia's abrupt return from a foreign visit of his own. This timing underscores the Schmittian point that the sovereign decision need not be preceded by public deliberation or advance notice. Its force derives precisely from its capacity to override, instantaneously and without appeal, whatever constitutional description of the situation had prevailed a moment before.

Zia's stated justifications for the dismissal, administrative ineffectiveness, nepotism, corruption and economic paralysis, are notable less for their specific content than for the

constitutional mechanism through which they were deployed. Article 58(2)(b), introduced by the very Eighth Amendment that had restored the 1973 Constitution, supplied the formal legal basis for an act that was, in substance, indistinguishable from the original 1977 coup. Both were the unilateral termination of an elected government by an executive authority answerable to no other elected body for that decision. The difference between 1977 and 1988 is not one of kind but of instrument. Martial law proclamation served the purpose in the first instance. A constitutionally codified reserve power served it in the second. Both instantiate the same sovereign structure.

The dismissal was compounded by a further constitutional irregularity. Article 48(5)(b) required Zia, upon dissolving the Assembly, to form a caretaker cabinet under a prime minister, a requirement Zia disregarded by retaining a cabinet without appointing anyone to that office, removing only those ministers personally loyal to Junejo (Patel, 2000, p. 150). This detail illustrates a recurring feature of the entire period. Even the amended, exception accommodating constitutional text was itself treated as negotiable at the sovereign's discretion. The Eighth Amendment did not exhaust the exception. It only gave the exception a more elaborate vocabulary in which to operate.

Death, Constitutional Vacuum and the Question of Succession

The dismissal's constitutionality was in fact successfully challenged. The Supreme Court subsequently declared Zia's 29 May order dissolving the Assembly unconstitutional, a ruling that, had it been acted upon, would have restored Junejo and his ministers to office (Patel, 2000, p. 150). No such restoration occurred. The petitioner in the relevant case, Haji Saifullah, argued that a Junejo led cabinet remained constitutionally valid precisely because the dissolution had been unlawful. Junejo himself declined to pursue reinstatement through the courts. General Mirza Aslam Beg, then Vice Chief of Army Staff, is reported to have conveyed, through the Chairman of the Senate to the Chief Justice, a clear signal that the judiciary would not be permitted to reinstate the dismissed government (Haider, 2000, pp. 120 to 150).

Zia's death in the 17 August 1988 plane crash near Bahawalpur precipitated a genuine constitutional vacuum, and the manner of its resolution offers a final and unusually clear illustration of the argument developed here. Rather than the elected National Assembly, whose dissolution the Supreme Court had already found unlawful, resuming its authority, power passed instead to Ghulam Ishaq Khan as Acting President under the constitutional line of succession. Ghulam Ishaq Khan, himself a career bureaucrat, moved swiftly to appoint General Mirza Aslam Beg as Chief of Army Staff, an act whose constitutional propriety in the hands of an acting and unelected president remains genuinely doubtful. The military leadership present at the succession meeting, notably General Beg, declined to reimpose formal martial law, opting instead for what several accounts describe as a constitutional transfer of power. That transfer occurred entirely without reference to the previously dismissed, and by then judicially vindicated, elected government.

The succession thus reproduced, in miniature, the entire logic of the eleven years under study. An elected body's claim to authority was set aside, not through the reimposition of martial law, but through the quiet operation of a constitutional order whose key discretionary powers remained concentrated outside genuinely representative institutions. The fact that this reproduction occurred after the death of the sovereign who had originally declared the exception is itself significant. It suggests that by 1988 the tutelary arrangement no longer depended on Zia's individual person. It had become an institutional habit, transferable from one office holder to the next.

Discussion: Delegated Rather Than Restored

The preceding narrative supports three interlocking claims. First, the 1985 transition did not terminate the state of exception inaugurated in 1977. It relocated that exception from extra constitutional martial law into the constitutional text itself, primarily through Article 58(2)(b). Second, the resulting arrangement corresponds closely to O'Donnell's tutelary variant of delegative democracy. Junejo possessed genuine executive authority, exercised it with evident sincerity across foreign policy, military budget and inquiry commission domains, and was removed precisely when that exercise began to exceed the boundaries the tutelary arrangement was designed to enforce. Third, the events surrounding Zia's death demonstrate that the tutelary structure did not depend on Zia's individual person. The succession mechanism reproduced the same subordination of elected authority to an unelected locus of decision even after the original sovereign had died in office.

This reading carries implications beyond the Zia and Junejo period narrowly construed. Article 58(2)(b) would go on to be invoked repeatedly across the following decade, against Benazir Bhutto's first government in 1990 and again in the dismissals that punctuated the 1990s more broadly. This pattern of recurrence is difficult to explain if the 1985 restoration is understood as a genuine return to constitutional government interrupted by isolated abuses. It is considerably easier to explain if the 1985 restoration is understood, as argued here, as the successful institutionalization of an exception that had never actually been lifted, only rewritten into a form durable enough to outlast the sovereign who first declared it. A companion study extends this argument through the four dismissals of the following decade and the eventual repeal of Article 58(2)(b) in 1997.

It is also worth situating this case within the broader comparative literature on tutelary transitions. O'Donnell's own account draws primarily on Latin American material, in which delegative practices tended to concentrate power in an elected executive vis a vis the legislature and judiciary, with the military functioning as a background guarantor rather than a routine participant in day-to-day dismissal politics (O'Donnell, 1994). The Pakistani case examined here differs in one important respect. The tutelary power was not simply a background guarantor available in moments of extreme crisis. It was written directly into the office of the presidency and exercised through an ordinary constitutional article rather than through extra constitutional intervention. This suggests a more fully institutionalized form of tutelage than the Latin American cases O'Donnell describes, one in which the exception

requires no rupture at all to be exercised, only the invocation of a clause already sitting in the constitutional text.

Conclusion

Reading the Zia and Junejo years through Schmitt and O'Donnell jointly reframes a sequence of events conventionally narrated as coup, deferred restoration and unconstitutional dismissal, as a single coherent constitutional project. That project was the construction of a delegated and tutelary order in which elected government supplements rather than constrains an extra constitutional sovereign. The Eighth Amendment, on this reading, achieves its most significant historical work not in restoring the 1973 Constitution but in giving durable and textual form to the very exception that document had originally been drafted to foreclose. The Junejo prime ministership, far from representing democracy's return, offers instead one of the clearest empirical instances available in South Asian political history of what a fully realized tutelary democracy looks like in practice. It was genuine and good faith civilian governance, operating right up until the moment it tested the boundary the sovereign reserved the right to redraw.

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